



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-HQ-OAR-2021-0133; FRL-8473-02-OAR]

RIN 2060-AV27

### National Emission Standards for Hazardous Air Pollutants: Technology Review for Wood Preserving Area Sources; Technical Correction for Surface Coating of Wood Building Products

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is proposing the results of the technology review conducted in accordance with the Clean Air Act (CAA) for the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Wood Preserving Area Sources. The EPA is proposing no changes to the standards as a result of the technology review. The EPA is proposing minor editorial and formatting changes to the Wood Preserving Area Sources NESHAP table of applicable general provisions. Unrelated to the review for the Wood Preserving Area Sources NESHAP, the EPA is also proposing technical corrections to the Surface Coating of Wood Building Products NESHAP.

**DATES:** Comments must be received on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

*Public hearing:* If anyone contacts us requesting a public hearing on or before [INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], we

will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

**ADDRESSES:** You may send comments, identified by Docket ID No. EPA-HQ-OAR-2021-0133, by any of the following methods:

- Federal eRulemaking Portal: <https://www.regulations.gov/> (our preferred method).  
Follow the online instructions for submitting comments.
- Email: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2021-0133 in the subject line of the message.
- Fax: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2021-0133.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2021-0133, Mail Code 28221T, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Hand/Courier Delivery: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m. – 4:30 p.m., Monday – Friday (except Federal holidays).

*Instructions:* All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. Out of an abundance of caution for members of the public and our staff, the EPA Docket Center and Reading Room are open to the public by appointment only to reduce the risk of transmitting COVID-19. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries and couriers may be received by scheduled appointment only. For further information on the

EPA Docket Center services and the current status, please visit us online at

<https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** For questions about this proposed action, contact Mr. John Evans, Sector Policies and Programs Division (E143-03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541-3633; fax number: (919) 541-4991; and email address: [Evans.John@epa.gov](mailto:Evans.John@epa.gov).

**SUPPLEMENTARY INFORMATION:**

*Participation in virtual public hearing.* Please note that because of current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of COVID-19, the EPA cannot hold in-person public meetings at this time.

To request a virtual public hearing, contact the public hearing team at (888) 372-8699 or by email at [SPPDpublichearing@epa.gov](mailto:SPPDpublichearing@epa.gov). If requested, the virtual hearing will be held on

**[INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The hearing will convene at 9:00 a.m. Eastern Time (ET) and will conclude at 3:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at

<https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous>.

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing upon publication of this document in the *Federal Register*. To register to speak at the virtual hearing, please use the online registration form available at

<https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous> or contact the public hearing team at (888) 372-8699 or by email at [SPPDpublichearing@epa.gov](mailto:SPPDpublichearing@epa.gov). The last day to pre-register to speak at the hearing will be

**[INSERT DATE 12 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: <https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous>.

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to [Evans.John@epa.gov](mailto:Evans.John@epa.gov). The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at <https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous>. While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372-8699 or by email at [SPPDpublichearing@epa.gov](mailto:SPPDpublichearing@epa.gov) to determine if there are any updates. The EPA does not intend to publish a document in the *Federal Register* announcing updates.

If you require the services of a translator or special accommodation such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by **[INSERT DATE 7 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The EPA may not be able to arrange accommodations without advanced notice.

*Docket.* The EPA has established a docket for this rulemaking under Docket ID No. EPA-HQ-OAR-2021-0133. All documents in the docket are listed in <https://www.regulations.gov/>. Although listed, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in Regulations.gov.

*Instructions.* Direct your comments to Docket ID No. EPA-HQ-OAR-2021-0133. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <https://www.regulations.gov/>, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to <https://www.regulations.gov/> any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted by as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

The <https://www.regulations.gov/> website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA

without going through <https://www.regulations.gov/>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center home page at <https://www.epa.gov/dockets>.

Due to public health concerns related to COVID-19, the Docket Center and Reading Room are open to the public by appointment only. Our Docket Center staff also continues to provide remote customer service via email, phone, and webform. Hand deliveries or couriers will be received by scheduled appointment only. For further information and updates on the EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the CDC, local area health departments, and our Federal partners so that we can respond rapidly as conditions change regarding COVID-19.

*Submitting CBI.* Do not submit information containing CBI to the EPA through <https://www.regulations.gov/>. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not

contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (e.g., Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the OAQPS CBI Office at the email address [oaqpscbi@epa.gov](mailto:oaqpscbi@epa.gov), and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email [oaqpscbi@epa.gov](mailto:oaqpscbi@epa.gov) to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404-02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2021-0133. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

*Preamble acronyms and abbreviations.* Throughout this document wherever “we,” “us,” or “our” is used, it is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

BACT	best available control technology
CAA	Clean Air Act
CBI	Confidential Business Information
CCA	chromated copper arsenate
CDC	Centers for Disease Control and Prevention
CFR	Code of Federal Regulations
EJ	environmental justice
EPA	Environmental Protection Agency
ET	eastern time

FR	<i>Federal Register</i>
GACT	generally available control technology
HAP	hazardous air pollutant(s)
km	kilometer
LAER	lowest achievable emission rate
NESHAP	national emission standards for hazardous air pollutants
NSR	New Source Review
NTTAA	National Technology Transfer and Advancement Act
OAQPS	Office of Air Quality Planning and Standards
OMB	Office of Management and Budget
OSHA	Occupational Safety and Health Administration
PRA	Paperwork Reduction Act
RACT	reasonably available control technology
RBLC	RACT/BACT/LAER Clearinghouse
RFA	Regulatory Flexibility Act
tpy	tons per year
UMRA	Unfunded Mandates Reform Act

*Organization of this document.* The information in this preamble is organized as follows:

## **I. General Information**

*A. Does this action apply to me?*

*B. Where can I get a copy of this document and other related information?*

## **II. Background**

*A. What is the statutory authority for this action?*

*B. What is this source category and how does the current NESHAP regulate its HAP emissions?*

*C. What data collection activities were conducted to support this action?*

*D. What other relevant background information and data are available?*

*E. How does the EPA perform the technology review?*

## **III. Proposed Rule Summary and Rationale**

*A. What are the results and proposed decisions based on our technology review, and what is the rationale for those decisions?*

*B. What other actions are we proposing, and what is the rationale for those actions?*

*C. What compliance dates are we proposing, and what is the rationale for the proposed compliance dates?*

*D. What are the proposed corrections to subpart QQQQ: Surface Coating of Wood Building Products.*

## **IV. Summary of Cost, Environmental, and Economic Impacts**

*A. What are the affected sources?*

*B. What are the air quality impacts?*

*C. What are the cost impacts?*

*D. What are the economic impacts?*

*E. What are the benefits?*

*F. What analysis of environmental justice did we conduct?*



## **V. Request for Comments**

### **VI. Statutory and Executive Order Reviews**

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

*B. Paperwork Reduction Act (PRA)*

*C. Regulatory Flexibility Act (RFA)*

*D. Unfunded Mandates Reform Act (UMRA)*

*E. Executive Order 13132: Federalism*

*F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments*

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

*H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

*I. National Technology Transfer and Advancement Act (NTTAA)*

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations*

### **I. General Information**

*A. Does this action apply to me?*

The source category that is the main subject of this proposal is Wood Preserving Area Sources regulated under 40 CFR part 63, subpart QQQQQQ. The North American Industry Classification System (NAICS) code for the wood preserving industry is 321114. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action. Wood Preserving Area Sources was added to the area source category list under the Integrated Urban Air Toxics Strategy in 2002 (see 67 FR 43112, June 26, 2002) and the *Documentation for Developing the Initial Source Category List, Final Report* (see EPA-450/3-91-030, July 1992) defines the Wood Preserving Area Sources category as any area source facility engaged in the treatment of wood products for preservation or other purposes. Wood treatment is accomplished by pressure or thermal impregnation of chemicals into wood to provide long-term resistance to attack by fungi, bacteria, insects, and marine borers.

This action also proposes technical corrections to the Surface Coating of Wood Building Products source category. The technical corrections are described in section III.D.

*B. Where can I get a copy of this document and other related information?*

In addition to being available in the docket, an electronic copy of this action is available on the Internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at <https://www.epa.gov/stationary-sources-air-pollution/wood-preserving-area-sources-national-emission-standards-hazardous>. Following publication in the *Federal Register*, the EPA will post the *Federal Register* version of the proposal and key technical documents at this same website.

A redline strikeout version of the rule showing the edits that would be necessary to incorporate the changes proposed in this action is presented in the memorandum titled: *Proposed Redline Strikeout Edits, Subpart QQQQQQ: Wood Preserving Area Sources*, available in the docket for this action (Docket ID No. EPA-HQ-OAR-2021-0133).

## **II. Background**

### *A. What is the statutory authority for this action?*

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112(d)(6) requires the EPA to review standards promulgated under CAA section 112(d) and revise them “as necessary (taking into account developments in practices, processes, and control technologies)” no less often than every 8 years following promulgation of those standards. This is referred to as a “technology review” and is required for all standards established under CAA section 112(d) including generally available control technology (GACT) standards that apply to area sources.<sup>1</sup> This proposed action constitutes the CAA 112(d)(6) technology review for the Wood Preserving Area Sources NESHAP.

Several additional CAA sections are relevant to this action as they specifically address regulation of hazardous air pollutant emissions from area sources. Collectively, CAA sections 112(c)(3), (d)(5), and (k)(3) are the basis of the Area Source Program under the Urban Air

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<sup>1</sup> For categories of area sources subject to GACT standards, CAA sections 112(d)(5) and (f)(5) provide that the CAA section 112(f)(2) residual risk review is not required. However, the CAA section 112(d)(6) technology review is required for such categories.

Toxics Strategy, which provides the framework for regulation of area sources under CAA section 112.

Section 112(k)(3)(B) of the CAA requires the EPA to identify at least 30 HAP that pose the greatest potential health threat in urban areas with a primary goal of achieving a 75 percent reduction in cancer incidence attributable to HAP emitted from stationary sources. As discussed in the Integrated Urban Air Toxics Strategy (64 FR 38706, 38715, July 19, 1999), the EPA identified 30 HAP emitted from area sources that pose the greatest potential health threat in urban areas, and these HAP are commonly referred to as the “30 urban HAP.”

Section 112(c)(3) of the CAA, in turn, requires the EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. The EPA implemented these requirements through the Integrated Urban Air Toxics Strategy by identifying and setting standards for categories of area sources including the Wood Preserving Area Sources category that is addressed in this action.

Section 112(d)(5) of the CAA provides that for area source categories, in lieu of setting maximum achievable control technology (MACT) standards (which are generally required for major source categories), the EPA may elect to promulgate standards or requirements for area sources “which provide for the use of generally available control technology or management practices [GACT] by such sources to reduce emissions of hazardous air pollutants.” In developing such standards, the EPA evaluates the control technologies and management practices that reduce HAP emissions that are generally available for each area source category. Consistent with the legislative history, we can consider costs and economic impacts in determining what constitutes GACT.

GACT standards were promulgated for the Wood Preserving Area Sources category in 2007 (72 FR 38864, July 16, 2007). As noted above, this proposed action presents the required CAA 112(d)(6) technology review for that source category.

*B. What is this source category and how does the current NESHAP regulate its HAP emissions?*

The Wood Preserving Area Sources category includes facilities that use either a pressure or thermal treatment process to impregnate chemicals into wood to provide long-term resistance to attack by fungi, bacteria, insects, or marine borers. Some of the products produced by the wood preserving industry include posts, cross ties, switch ties, utility poles, round timber pilings, lumber for aquatic applications, and fire-retardant lumber products.

More than 95 percent of all treated wood is preserved through pressurized processes. Almost all wood preservation employing a pressure process takes place in a closed treating cylinder or retort. A retort is an airtight pressure vessel, typically a long horizontal cylinder, used for the pressure impregnation of wood products with a liquid wood preservative. In a thermal treatment process, the wood is exposed to the preservative in an open vessel. The wood is immersed alternately in separate tanks containing heated and cold preservative, either oil- or waterborne. Alternatively, the wood may be immersed in one tank that is first heated then allowed to cool. During the hot bath, air in the wood expands, which forces some air out. Heating improves penetration of preservatives. In the cold bath, air in the wood contracts, creating a partial vacuum, and atmospheric pressure forces more preservative into the wood.

There are three general classes of wood preservatives: a) oils, such as creosote and petroleum solutions of pentachlorophenol (also called “penta” or “PCP”) and copper naphthenate, b) waterborne salts that are applied as water solutions, such as chromated copper arsenate (CCA), and c) light organic solvents, which serve as the carriers for synthetic insecticides. Over the past few decades, the wood preserving industry has undergone several changes related to the types of preservatives used for certain applications and the associated emissions. Of the wood preservatives being used today, some contain HAP, and some do not contain HAP.

The NESHAP is applicable to any wood preserving operation located at an area source. The EPA has estimated that there are 322 wood preserving area sources. However, only those

facilities that are using a wood preservative containing one or more of the target HAP, arsenic, chromium, dioxins, or methylene chloride, are subject to the GACT standards. Three wood preservatives, pentachlorophenol, CCA, and ammoniacal copper zinc arsenate (ACZA) contain at least one of the target HAP. Pentachlorophenol (a HAP) contains trace concentrations of dioxins, which are a target HAP. CCA contains the target HAP arsenic and chromium. ACZA contains the target HAP arsenic. The EPA is not aware of any facilities currently using a wood preservative containing the target HAP methylene chloride. The EPA has estimated that 177 wood preserving area sources use a wood preservative containing a target HAP and are subject to the GACT standards. The remaining area sources use wood preservatives that do not contain HAP or use creosote, which contains the HAP naphthalene.

The GACT standards require any facility using a pressure treatment process to use a retort or similarly enclosed vessel for the preservative treatment. Facilities using a thermal treatment process are required to use process treatment tanks equipped with air scavenging systems to capture and control air emissions. In addition, all facilities must prepare and operate according to a management practice plan to minimize air emissions, including emissions from process tanks and equipment (*e.g.*, retorts, other enclosed vessels, thermal treatment tanks), storage, handling, and transfer operations. These standards are required to be documented in a management practices plan. See 40 CFR 63.11430(c).

*C. What data collection activities were conducted to support this action?*

For this technology review, the EPA used information from several available databases to compile a list of wood preserving area sources. These databases included the Enforcement and Compliance History Online (ECHO), the Toxic Release Inventory (TRI), the National Emissions Inventory (NEI), and Integrated Compliance Information System for Air (ICIS-AIR). Additional information about these data collection activities for the technology review is contained in the memoranda titled *Technology Review for the Wood Preserving Area Sources National Emission Standards for Hazardous Air Pollutants*, available in the docket for this action.

Also, for the technology review, the EPA searched for reasonably available control technology (RACT), best available control technology (BACT), and lowest achievable emission rate (LAER) determinations in the EPA's RACT/BACT/LAER Clearinghouse (RBLC). This database contains case-specific information on air pollution technologies that have been required to reduce the emissions of air pollutants from stationary sources. Under the EPA's New Source Review (NSR) program, an NSR permit must be obtained if a facility is planning new construction that increases the air emissions of any regulated NSR pollutant at or above 100 or 250 tons per year (tpy) (or a lower threshold depending upon nonattainment severity) or a modification that results in a significant emissions increase and a significant net emissions increase of any regulated NSR pollutant. "Significant" emissions increase is defined in the NSR regulations and is pollutant-specific, ranging from less than 1 pound (lb) to 100 tpy of the applicable regulated NSR pollutant. The RBLC database promotes the sharing of information among permitting agencies and aids in case-by-case determinations for NSR permits. The EPA examined information contained in the RBLC to determine if there were any technologies or practices that are currently used for reducing emissions of arsenic, chromium, or dioxins from wood preserving. The EPA also searched the EPA's Applicability Determination Index (ADI) website to determine if any alternative emission standards or management practices had been requested or approved.

The EPA also searched available online state databases for state issued air quality construction and operating permits for the purposes of identifying wood preserving area sources and to determine if states required emission technologies or practices beyond those required under the current NESHAP for the purposes of reducing emissions of the arsenic, chromium, or dioxins from wood preserving area sources.

*D. What other relevant background information and data are available?*

Additional details and background information regarding this review, including the information sources described in section II.C above, are contained in the *Technology Review for*

*the Wood Preserving Area Sources National Emission Standards for Hazardous Air Pollutants*, which can be found in the docket for this action.

*E. How does the EPA perform the technology review?*

This technology review primarily focused on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the GACT standards were promulgated. Where the EPA identifies such developments, their technical feasibility, estimated costs, energy implications, and non-air environmental impacts are analyzed. The EPA also considers the emission reductions associated with applying each development. The analysis informs the EPA's decision of whether it is "necessary" to revise the emissions standards. In addition, the EPA considers the appropriateness of applying controls to new sources versus retrofitting existing sources. For this exercise, the EPA considers any of the following to be a "development":

- Any add-on control technology or other equipment that was not identified and considered during development of the original GACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original GACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original GACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original GACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original GACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time the NESHAP was originally developed, the EPA reviews a variety of data sources in the investigation of potential practices, processes, or controls to consider. See sections II.C and II.D of this preamble for information on the specific data sources that were reviewed as part of the technology review.

### **III. Proposed Rule Summary and Rationale**

*A. What are the results and proposed decisions based on our technology review, and what is the rationale for those decisions?*

As described in section II of this preamble, the technology review focused on identifying developments in practices, processes, and control technologies for the Wood Preserving Area Sources category. The EPA reviewed various sources of information regarding emission sources that are currently regulated by the Wood Preserving Area Sources GACT. Based on this review the EPA did not identify any developments in practices, processes, and control technologies for wood preserving area source facilities that would further reduce emissions of the four urban HAP for which the Wood Preserving Area Sources category was listed. As a result of this review, the EPA is proposing that revisions to the existing GACT standards are not necessary.

*B. What other actions are we proposing, and what is the rationale for those actions?*

In this proposal, the EPA is proposing minor editorial and formatting changes to Table 1 to Subpart QQQQQQ of Part 63 – Applicability of General Provisions to Subpart QQQQQQ of Part 63. These proposed changes are based on updated text and references in the General Provisions and will be consistent with other NESHAP. The updates include listing individual provisions on separate lines as opposed to grouping provisions and including explanations, where appropriate, for the applicability of the general provision to 40 CFR part 63, subpart QQQQQQ (*e.g.*, the general provisions at 40 CFR 60.6(h)(6) through (9) are not applicable because the subpart does not contain opacity limits). The proposed redline-strikeout regulatory edits that would be necessary to incorporate the minor editorial and formatting changes proposed



in this action are presented in an attachment to the memorandum titled: *Proposed Redline Strikeout Edits, Subpart QQQQQQ: Wood Preserving Area Sources*, available in the docket for this action.

*C. What compliance dates are we proposing, and what is the rationale for the proposed compliance dates?*

There are no proposed changes to the existing compliance dates because we are not proposing any revisions to existing requirements.

*D. What are the proposed corrections to subpart QQQQ: Surface Coating of Wood Building Products?*

In this proposal, and unrelated to the technology review for the Wood Preserving Area Sources NESHAP, the EPA is proposing technical corrections to a different NESHAP: the NESHAP for Surface Coating of Wood Building Products. The proposed changes are necessary because the NESHAP for Surface Coating of Wood Building Products contains a reference to an Occupational Safety and Health Administration (OSHA) provision that has changed. The EPA proposes to amend 40 CFR 63.4741(a)(1)(i) and (a)(4), which describe how to determine the mass fraction of organic HAP in each material used, to remove references to OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4). The reference to OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) is intended to specify which compounds must be included in calculating total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. The EPA proposes to remove this reference because 29 CFR 1910.1200(d)(4) has been amended and no longer readily defines which compounds are carcinogens. The EPA is proposing to replace these references to OSHA-defined carcinogens and 29 CFR 1910.1200(d)(4) with a list (in proposed new Table 7 to 40 CFR part 63, subpart QQQQ) of those organic HAP that must be included in calculating the total organic HAP content of a coating material if they are present at 0.1 percent or greater by mass. The proposed redline strikeout regulatory edits that would be necessary to incorporate the changes proposed in this

action related to the technical correction are presented in the memorandum titled: *Proposed Redline Strikeout Edits, Subpart QQQQ*: Surface Coating of Wood Products, available in the docket for this action (Docket ID No. EPA-HQ-OAR-2021-0133).

#### **IV. Summary of Cost, Environmental, and Economic Impacts**

##### *A. What are the affected sources?*

Currently, the EPA estimates that there are 322 wood preserving area source facilities in the United States that are subject to 40 CFR part 63, subpart QQQQQQ. Approximately 177 of those facilities use or are permitted to use a wood preservative containing arsenic, chromium, dioxins, or methylene chloride and therefore must comply with the management practice requirements in 40 CFR part 63, subpart QQQQQQ.

##### *B. What are the air quality impacts?*

Emissions of arsenic, chromium, dioxins, and methylene chloride are not expected to change in any significant way due to this action and therefore no change in air quality impacts is expected.

##### *C. What are the cost impacts?*

The one-time cost associated with reviewing the proposed rule is estimated to be \$270 per affected facility in 2019 dollars.

##### *D. What are the economic impacts?*

Economic impact analyses focus on changes in market prices and output levels. If changes in market prices and output levels in the primary markets are significant enough, impacts on other markets may also be examined. Both the magnitude of costs needed to comply with a final rule and the distribution of these costs among affected facilities can have a role in determining how the market will change in response to a final rule. The total cost associated with this final rule across all facilities is estimated to be approximately \$87,000. The estimated cost for each facility is \$270, which represents a one-time cost associated with reviewing the revised

rule. These costs are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms.

*E. What are the benefits?*

If finalized as proposed, the EPA does not anticipate any significant changes in arsenic, chromium, dioxin, or methylene chloride emissions as a result of the proposed action.

*F. What analysis of environmental justice did we conduct?*

Executive Order 12898 directs the EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms; specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994). Additionally, Executive Order 13985 was signed to advance racial equity and support underserved communities through Federal government actions (86 FR 7009, January 20, 2021). The EPA defines environmental justice (EJ) as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies” (<https://www.epa.gov/environmentaljustice>). In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution.

To examine the potential for any EJ issues that might be associated with the source category, we performed a demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 kilometers (km) and within 50 km of the facilities. The EPA then compared the data from this analysis to the national average for each of the demographic groups.

The results of the demographic analysis (Table 1) indicate that, for populations within 5 km of the 322 facilities in the source category, the percent minority population (being the total population minus the white population) is larger than the national average (48 percent versus 40 percent). Within minorities, the percent of the population that is African American is significantly higher than the national average (21 percent versus 12 percent). The percent of the population that is Other and Multiracial (6 percent) and Hispanic/Latino (21 percent) is slightly higher than the national averages (8 percent and 19 percent, respectively). The percent of the population that is Native American is similar to the national average (0.5 percent versus 0.7 percent). The percent of people living below the poverty level is higher than the national average (18 percent versus 13 percent). The percent of people over 25 without a high school diploma, and those living in linguistic isolation is similar to the national average.

The results of the analysis (Table 1) indicate that, for populations within 50 km of the 322 facilities in the source category, the percent minority population (38 percent) is smaller than the national average (40 percent). Within minorities, the percent of the population that is African American is slightly higher than the national average (14 percent versus 12 percent). Within 50 km, the percent of the population for all other minorities is similar to or lower than the national average. The percent of people living below the poverty level, over 25 without a high school diploma, and living in linguistic isolation is similar to the national average.

A summary of the proximity demographic assessment performed for National Emission Standards for Hazardous Air Pollutants: Technology Review for Wood Preserving Area Sources facilities is included as Table 1. The methodology and the results of the demographic analysis are presented in a technical report, *Analysis of Demographic Factors for Populations Living Near National Emission Standards for Hazardous Air Pollutants: Technology Review for Wood Preserving Area Sources*, available in this docket for this action (Docket ID No. EPA-HQ-OAR-2021-0133).

Table 1. Proximity Demographic Assessment Results for National Emission Standards for Hazardous Air Pollutants: Technology Review for Wood Preserving Area Sources

<b>Demographic Group</b>	<b>Nationwide</b>	<b>Population within 50 km of 322 Facilities</b>	<b>Population within 5 km of 322 Facilities</b>
Total Population	328,016,242	129,342,574	5,382,118
	<b>White and Minority by Percent</b>		
White	60%	62%	52%
Minority	40%	38%	48%
	<b>Minority by Percent</b>		
African American	12%	14%	21%
Native American	0.70%	0.4%	0.5%
Hispanic or Latino (includes white and nonwhite)	19%	17%	21%
Other and Multiracial	8%	8%	6%
	<b>Income by Percent</b>		
Below Poverty Level	13%	13%	18%
Above Poverty Level	87%	87%	82%
	<b>Education by Percent</b>		
Over 25 and without a High School Diploma	12%	12%	15%
Over 25 and with a High School Diploma	88%	88%	85%
	<b>Linguistically Isolated by Percent</b>		
Linguistically Isolated	5%	5%	6%

Notes:

- The nationwide population count and all demographic percentages are based on the Census' 2015-2019 American Community Survey five-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts within 5 km and 50 km of all facilities are based on the 2010 Decennial Census block populations.
- Minority population is the total population minus the white population.

- To avoid double counting, the "Hispanic or Latino" category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, African American, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.

Based on our technology review, we did not identify any add-on control technologies, process equipment, work practices or procedures that were not previously considered during development of the 2007 Wood Preserving Area Sources NESHAP, and we did not identify developments in practices, processes, or control technologies that would result in additional emission reductions.

## **V. Request for Comments**

The EPA solicits comments on this proposed action. In addition to general comments on this proposed action, the EPA is also interested in additional data that may improve the analyses. The EPA is specifically interested in receiving any information regarding developments in practices, processes, and control technologies that reduce HAP emissions from the sources within the wood preserving area sources category.

## **VI. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at

*<https://www.epa.gov/laws-regulations/laws-and-executive-orders>.*

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563:

Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was, therefore, not submitted to the OMB for review.

B. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the PRA. OMB has previously approved the information collection activities contained in the existing regulations and has assigned OMB control number 2060-0598. This proposal does not include any new reporting or record keeping requirements and therefore does not impose an information collection burden.

### C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities subject to the requirements of this action are small businesses. The Agency has determined that all small entities affected by this action, estimated to be 175 entities, may experience an impact of less than 0.7 percent of revenues, with approximately 95 percent of these entities estimated to experience a potential impact of less than 0.1 percent of revenues. Details of the analysis are presented in the spreadsheet titled *RFA\_Analysis\_Wood\_2022\_Proposal.xlsx*, which is found in the docket.

### D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of \$100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. While this action creates an enforceable duty on the private sector, the cost does not exceed \$100 million or more.

### E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

### F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this action. However, consistent with the EPA policy on coordination and consultation with Indian tribes, the EPA will offer government-to-government consultation with tribes as requested.

G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act (NTTAA)

This action does not involve any technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations, and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The methodology and the results of the demographic analysis are discussed in section IV.F above.

**List of Subjects in 40 CFR Part 63**

Environmental protection, Air pollution control, Hazardous substances, Reporting and record keeping requirements.



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**Michael S. Regan,**

*Administrator.*

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